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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 UNICOLORS, INC., a California Corporation;

12 Plaintiff,

13 vs.

14 NATIONAL STORES, INC. d/b/a FALLAS
15 DISCOUNT STORES, a California
16 Corporation; DYNASTY FASHIONS, INC., a
17 California Corporation; and DOES 1-10,
18 inclusive,

19 Defendants.

Case Number: 2:16-cv-790

**PLAINTIFF'S COMPLAINT FOR:
1. COPYRIGHT INFRINGEMENT
AND/OR
2. VICARIOUS AND/OR CONTRIBUTORY
COPYRIGHT INFRINGEMENT**

Jury Trial Demanded

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21 Plaintiff UNICOLORS, Inc. ("Plaintiff" or "UNICOLORS") by and through its undersigned
22 attorneys, hereby prays to this honorable Court for relief and remedy based on the following:

23
24 **INTRODUCTION**

25 Plaintiff is a California-based company engaged in the apparel industry as a textile converter of
26 imported and domestic fabrications. Plaintiff creates, or purchases and obtains, exclusive rights
27 to unique two-dimensional graphic artworks for use on textiles and garments, and those textiles
28 and garments are transacted primarily in the fashion industry. Plaintiff owns these designs in

1 exclusivity and makes sales of products bearing these designs for profit. Plaintiff's business is
2 predicated on its ownership of these designs and it spends a considerable amount of time and
3 resources creating and obtaining top-quality, marketable and aesthetically-appealing designs.
4 Customers of Plaintiff, including possibly DOE defendants named herein, take design samples
5 with the understanding and agreement that they will only utilize Plaintiff to reproduce said
6 designs should they wish to do so, and will not seek to make minor changes to Plaintiff's
7 proprietary work to reproduce the same elsewhere, yet use those designs in furtherance of their
8 business in violation of both their contractual agreement with Plaintiff and Plaintiff's copyrights.
9 No other party is authorized to make sales of product bearing Plaintiff's proprietary designs
10 without express permission from Plaintiff. This action is brought to recover damages for direct,
11 vicarious and contributory copyright infringement arising out of the misappropriation of
12 Plaintiff's exclusive designs by the Defendants, and each of them.

13 14 **JURISDICTION AND VENUE**

- 15 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C. § 101 *et seq.*
16 2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331, 1338(a) and (b).
17 3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a) in that this is
18 the judicial district in which a substantial part of the acts and omissions giving rise to the
19 claims occurred.

20 21 **PARTIES**

- 22 4. UNICOLORS, Inc. ("Plaintiff") is a corporation organized and existing under the laws of the
23 State of California with its principal place of business in the County of Los Angeles, at 3251
24 East 26th Street, Vernon, CA 90058.
25 5. Plaintiff is informed and believes and thereon alleges that Defendant NATIONAL STORES,
26 INC. d/b/a FALLAS DISCOUNT STORES ("FALLAS"), is, and at all times herein
27 mentioned was, a corporation organized and existing under the laws of California and doing
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1 business in California, with its principal place of business at 15001 S. Figueroa Street,
2 Gardena, CA 90248.

3 6. Plaintiff is informed and believes and thereon alleges that Defendant DYNASTY
4 FASHIONS INC. (“DYNASTY”), is, and at all times herein mentioned was, a corporation
5 existing under the laws of California and doing business in California, with its principal place
6 of business at 1515 S. Santee Street, Los Angeles, CA 90015.

7 7. Named Defendants, and Does 1-10, may be collectively referred to as “Defendants.”

8 8. Plaintiff is informed and believes and thereon alleges that some of Defendants Does 1
9 through 3, inclusive, are manufacturers and/or vendors of garments to Defendant, which
10 DOE Defendants have manufactured and/or supplied and are manufacturing and/or supplying
11 garments comprised of fabric printed with Plaintiff’s copyrighted design(s) (as hereinafter
12 defined) without Plaintiff’s knowledge or consent or have contributed to said infringement.
13 The true names, whether corporate, individual or otherwise, and capacities of defendants
14 sued herein as Does 1 through 3 are presently unknown to Plaintiff at this time, and therefore,
15 Plaintiff sues said defendants by such fictitious names. Plaintiff will seek leave to amend this
16 complaint to allege their true names and capacities when the same have been ascertained.
17 Plaintiff is informed and believes, and based thereon alleges, that each of defendants
18 designated as a DOE is responsible in some manner for the events alleged herein and the
19 damages caused thereby.

20 9. Defendants DOES 4 through 10, inclusive, are other parties not yet identified who have
21 infringed Plaintiff’s copyrights, have contributed to the infringement of Plaintiff’s
22 copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true
23 names, whether corporate, individual or otherwise, and capacities of defendants sued herein
24 as Does 4 through 10 are presently unknown to Plaintiff at this time, and therefore, Plaintiff
25 sues said defendants by such fictitious names. Plaintiff will seek leave to amend this
26 complaint to allege their true names and capacities when the same have been ascertained.

27 10. Plaintiff is informed and believes and thereupon alleges that at all times relevant hereto each
28 of Defendants acted in concert with each other, was the agent, affiliate, officer, director,

1 manager, principal, alter-ego, and/or employee of the remaining defendants and was at all
 2 times acting within the scope of such agency, affiliation, alter-ego relationship and/or
 3 employment; and actively participated in or subsequently ratified and adopted, or both, each
 4 and all of the acts or conducts alleged, with full knowledge of all the facts and circumstances,
 5 including without limitation to full knowledge of each and every wrongful conducts and
 6 Plaintiff's damages caused therefrom.

7 8 **CLAIMS RELATED TO DESIGN**

9 11. Plaintiff is the owner and author of a two-dimensional artwork called TS397, under title
 10 Flower 2010 (03) ("Subject Design"). (Exhibit A).

11 12. Plaintiff applied for a copyright from the United States Copyright Office for the Subject
 12 Design and was granted Registration No. VA 1-738-515 effective on June 25, 2010. (Exhibit
 13 B).

14 13. Plaintiff formatted the Subject Design for use on textiles, sampled the Subject Design, and
 15 negotiated sales of fabric bearing the Subject Design.

16 14. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's authorization,
 17 Defendant DYNASTY purchased, sold, manufactured, caused to be manufactured, imported
 18 and/or distributed fabric and/or garments comprised of fabric featuring a design which is
 19 identical, or substantially similar to, the Subject Design. A true and correct copy of such a
 20 garment is attached hereto as Exhibit C. Said garments include but are not limited to
 21 garments sold by FALLAS bearing the label "Christine V" under RN 96729, which indicates
 22 that the garments were manufactured by or for DYNASTY.

23 15. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's authorization,
 24 Defendant FALLAS purchased, sold, manufactured, caused to be manufactured, imported
 25 and/or distributed fabric and/or garments comprised of fabric featuring a design which is
 26 identical, or substantially similar to, the Subject Design. A true and correct copy of such a
 27 garment is attached hereto as Exhibit C. Said garments include but are not limited to
 28

garments sold by FALLAS bearing the label “Christine V” under RN 96729, which indicates that the garments were manufactured by or for DYNASTY.

16. At various times Defendant FALLAS owned and controlled offline and/or online retail stores, and each, Plaintiff’s investigation revealed that garments comprised of fabric bearing the Subject Design were being offered for sale, garments which were manufactured and/or imported under the direction of the Defendants, and each of them.

17. None of the aforementioned transactions were authorized by Plaintiff, and all were in violation of Plaintiff’s intellectual property rights.

FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against all Defendants, and Each)

18. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully set forth the allegations contained in Paragraphs 1 through 16, inclusive, of this Complaint.

19. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, accessed the Subject Design through, without limitation, the following: (a) access to Plaintiff’s design library; (b) access to authorized or unauthorized reproductions in the possession of other vendors and/or DOE Defendants; and (c) access to Plaintiff’s strike-offs, swatches, paper CADs and samples.

20. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff’s copyright by importing, creating, making and/or developing directly infringing and/or derivative works from the Subject Design and by importing, producing, distributing and/or selling infringing garments through a nationwide network of retail stores, catalogues, and online websites.

21. Due to Defendants’ acts of infringement, Plaintiff has suffered substantial damages to its business in an amount to be established at trial.

22. Due to Defendants’ acts of infringement, Plaintiff has suffered general and special damages to its business in an amount to be established at trial.

1 23. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of
2 them, have obtained direct and indirect profits they would not otherwise have realized but for
3 their infringement of the Subject Design. As such, Plaintiff is entitled to disgorgement of
4 Defendants' profits directly and indirectly attributable to Defendants' infringement of the
5 Subject Design in an amount to be established at trial.

6 24. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them,
7 have committed acts of infringement alleged herein with actual or constructive knowledge of
8 Plaintiff's rights such that Plaintiff is entitled to a finding of willful infringement.

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10 **SECOND CLAIM FOR RELIEF**

11 (For Vicarious and/or Contributory Copyright Infringement – Against All Defendants)

12 25. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully set forth the
13 allegations contained in Paragraphs 1 through 23, inclusive, of this Complaint.

14 26. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them,
15 knowingly induced, participated in, aided and abetted in and resultantly profited from the
16 illegal reproduction, importation, purchase, distribution and/or sales of product featuring the
17 Subject Design as alleged herein above.

18 27. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, are
19 vicariously liable for the infringement alleged herein because they had the right and ability to
20 supervise the infringing conduct and because they had a direct financial interest in the
21 infringing product.

22 28. By reason of the Defendants', and each of their, acts of contributory and/or vicarious
23 infringement as alleged above, Plaintiff has suffered and will continue to suffer substantial
24 damages to its business in an amount to established at trial, as well as additional general and
25 special damages in an amount to be established at trial.

26 29. Due to Defendants' acts of contributory and/or vicarious copyright infringement as alleged
27 herein, Defendants, and each of them, have obtained direct and indirect profits they would
28 have not otherwise realized bur for their infringement of the Subject Design. As such,

1 Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable
2 to Defendants' infringement of the Subject Design, an amount to be established at trial.

3 30. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them,
4 have committed acts of infringement alleged herein with actual or constructive knowledge of
5 Plaintiff's rights such that Plaintiff is entitled to a finding of willful infringement.
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7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

9 **Against All Defendants**

10 With respect to Each Claim for Relief:

- 11 1. That Defendants, their agents and servants be enjoined from infringing Plaintiff's copyrights
12 in any manner;
- 13 2. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, the exact sum
14 to be proven at time of trial, or, if elected before final judgment, statutory damages as
15 available under the Copyright Act, 17 U.S.C. § 101 *et seq.*;
- 16 3. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act, 17 U.S.C.
17 § 101 *et seq.*;
- 18 4. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 19 5. That Plaintiff be awarded costs of litigation; and
- 20 6. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

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26 **DEMAND FOR TRIAL BY JURY**

27 Plaintiff hereby demands a trial by jury in this action pursuant to Federal Rule of Civil Procedure
28 38 and the Seventh Amendment of the Constitution.

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2 Dated: February 4, 2016
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5 Respectfully submitted,
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7 /s/
8 C. Yong Jeong, Esq.
9 Attorney for Plaintiff, UNICOLORS, INC.
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